

Section 6

Reference Materials

Reference Materials

TABLE OF CONTENTS

6-01	Reference Materials	6-01-01
6-02	Punctuation for Court Documents	
	A. Basic Punctuation	6-02-01
	B. Number Use	6-02-03
	C. Commonly Used and Misspelled Words	6-02-03
	D. Commas and Semicolons	6-02-04
	E. Apostrophes	6-02-05
	F. Dash	6-02-05
	G. Capitalization	6-02-07
6-03	Glossary of Legal Terms	6-03-01

Reference Materials

6-01 REFERENCE MATERIALS

A. Primary Materials

The following list is a short summary of the top ten reference materials that all reporters and recorders should have, or at least have available, for quick reference.

1. A good unabridged dictionary, such as Random House or Merriam Webster.
2. Taber's or Dorland's Medical Dictionary.
3. Black's Law Dictionary.
4. Martindale-Hubbell. Information on attorneys and judges including: bar numbers, schooling, degrees, addresses, phone numbers, etc.
5. Physicians Desk Reference (PDR): Prescription and Non-prescription Drugs.
6. Michigan Rules of Court, Current Edition. Includes Uniform System of Citations, Michigan Court Rules and Approved Court Forms. West Publishing Company, St. Paul, Minnesota.
7. How 4: A Secretary's Reference Manual.
8. Reverse Medical Secretary. Lists medical words by suffix.
9. McGraw-Hill Scientific and Technical Dictionary.
10. The Merck Manual of Diagnosis and Therapy.

B. Additional Materials

1. Association Magazines, exx, NSRA, Verbatim, Readback, etc.
2. Bartlett's Familiar Quotes
3. Court Reporting, Grammar and Punctuation, Diane Castilaw, 2d Edition, South-Western Publishing Co.
4. Houghton-Mifflin Medical and Health Sciences Word Book

5. Houghton-Mifflin Legal Word Book
6. Thesaurus
7. Webster's Word Book, a speller-divider of words
8. Zipcode Book - The post office will give you \$1.00 off if you bring the cover back each year.

6-02 PUNCTUATION FOR COURT DOCUMENTS

A. Basic Punctuation

1. Series: Three or more items joined by a conjunction. Include a comma before the conjunction.

Example: A I was in the car with Luke, Laura, and John.

2. Parenthetical: Added words or expressions. Commas on both sides.

Example: A We were, however, aware of the police car.

3. Conjunction: Independent clauses joined by a conjunction. Use a comma before the conjunction.

Example: Q When did you arrive at the scene, and how many others were with you?

4. Appositive: Word or words used to further explain. Use commas on both sides of the expression.

Example: Q Where were you on Friday, October 26, at 9 a.m.?

5. Introductory: Clause or phrase at the beginning of a sentence; no commas if at the end.

Example: Q When you left the bar, who did you see?

6. And Omitted: Two adjectives modifying the same noun; the word "and" omitted between them. Use a comma.

Example: A It was a cloudy, dark night.

7. Nonrestrictive: Clause or phrase that further identifies but is not necessary for the sense of the sentence. Enclose with commas.

Example: A Mary Smith, who is my landlady, will verify that.

8. No Conjunction: Two closely related sentences whose meaning would be more clear if read as a unit. Use a semicolon instead of making two sentences.

Example: A Mary was at her mother's house; her husband was at home alone.

9. Singular Possessive: If the base word is singular, determine the singular spelling; then add 's.

Example: A I talked to the attorney's secretary.

10. Plural Possessive: If the base word is plural, determine the plural spelling. If it ends in s, add'; if it ends in other than s, add 's.

*Example: A The three witnesses' testimony was not correct.
Q Where was the children's father at the time?*

11. Hyphenate Before a Noun: Hyphenate a compound adjective before a noun.

Example: Q When does your six-year term end?

12. Yes or No Responses: Always use a comma after the response yes or no. If the rest of the response adds something new to the information, use a period after the yes or no.

*Example: A No, I did not see him running from the scene.
A Yes. We went back the next day, too, to see what happened.*

13. Verification Question: If a statement is followed by a question that asks for a verification of the statement, use semi-colons before the question.

Example: Q You saw the man enter the door; isn't that right?

14. Direct Address: Use commas to set off words of direct address.

Example: Q I would like to request a recess, your Honor, if at all possible.

15. Interruption by Another: Use a dash to show an interruption of a speaker by another speaker.

*Example: A I was walking down the street and--
Q Please answer the question that was asked.*

16. Self Interruption: Use a dash when a speaker interrupts himself or herself and finishes the sentence with the new thought.

Example: A We could not see the car--the truck until we were in the intersection.

If the speaker resumes his original thought, use a pair of dashes.

Example: A We have been married eight years--well, just a little bit less--and we have four children.

B. Number Use

Numbers one to ten should be expressed in words; numbers larger than ten should be expressed in figures with the following exceptions:

1. Amounts of money: always in figures such as \$35; 6 cents; \$5,300.10.
2. Percents: always in figures such as 6 percent; 500 percent.
3. Measurements: always in figures such as 3 feet; 18 gallons; 4 degrees.
4. Beginning a sentence: always in words such as "Thirty-five men were there."
5. After a noun: always in figures such as No. 3; Room 310; page 4.
6. Dates: always in figures such as May 10, 1982; the 10th of May (or the tenth of May).
7. House numbers: always in figures except One such as 36 West Fifth; One North 15th.

C. Commonly Used and Misspelled Words

All right
Cross-examination
Direct Examination
Attorneys (plural)
Defendant
Appellant
Judgment
Argument
Acknowledgment
Voir Dire
Allegedly
Corroborate

D. Commas and Semicolons

1. Verification Question: A short question which asks for a verification of the statement. Use a comma before the word or phrase.

Example: That is right, isn't it?

2. Series: To separate items in a series. A complicated series may call for semicolons.

Example: I know Sharon; her mother, Rose; and Beatrice.

3. Addresses: To separate each line of an address which would be placed on a separate line of the envelope.

Example: My address is 4131 - 11th Street, Mt. Pleasant, Michigan.

4. Contrasting Expressions: Use commas to separate contrasting expressions from the rest of the sentence.

Example: He likes you, not me.

5. Miscellaneous Abbreviations: Abbreviations such as Inc., Jr., etc. must be followed by a comma (and usually preceded by a comma).

Example: Include John Smith, Jr., in your group.

6. Introductory Colloquial Words: Short slang words used as an introduction to a statement are complete sentences. Use a period to mark the end of an elliptical expression that represents a complete statement or command. These elliptical expressions often occur as answers to questions or as transitional phrases.

Example: All right. Tell me what happened.

7. Illustrative Phrases: Use a semicolon before and a comma after the word or words which introduce an illustrative phrase.

Example: We know what you are saying; that is, we understand.

8. No Conjunction: Use a semicolon to separate two independent clauses without a conjunction. (Or make two sentences if the thoughts are not closely related).

Example: He was late; therefore, we missed the bus.

9. Dependent "that" Clauses: Use a semicolon to separate a series of dependent "that" clauses.

Example: We know that you were there; that you had driven up in a white car; that your sister was with you; and that you had a gun.

10. Missing Verb: Use a semicolon to separate two independent ideas when the verb is missing in one and assumed to be carried from the first. Use a comma in place of the missing verb.

Example: Sandra went shopping; John, to the bar.

11. Independent Clauses, Conjunction, and Other Commas: Use a semicolon to separate two independent clauses when there are other commas in the sentence.

Example: In the first place, we should have known better; but the temptation was there.

E. Apostrophes

1. Singular Possessives Ending in "S": Still add 's to the singular spelling. If, however, you do not pronounce an extra syllable, you may just add '.

*Example: Mr. Peters's business is doing well. OR
Mr. Peters' business is doing well.*

2. Possessives When Not Immediately Followed by a Noun: Punctuate as if the noun followed.

Example: We stayed at my mother's. (House is assumed)

3. Plurals of Figures, Symbols, and Letters: An apostrophe may be used.

Example: We will always remember the 1980s. (or 1980's).

4. Omission of Figures: Use an apostrophe to show the omission.

Example: We will always remember the '80s.

5. Joint Possession: Use an apostrophe only after the last noun to show joint possession.

Example: Tom and Harry's car was wrecked.

6. Possession of Compound Words: Singular possessive: use 's. Plural possessive: use 's. That is, the plural spelling requires the first word of the compound to be made plural--not that last word.

Example: My sister-in-law's father came to town. (singular possessive)
My sisters-in law's children were loud. (plural possessive)

7. Adjectives: Don't confuse adjectives with possessives.

Example: The sales meeting was held yesterday.

8. Association Names: Use an apostrophe if the official name includes the apostrophe.

Example: The National Shorthand Reporters Association met.

F. Dash

1. Interruption: Use a dash to show the interruption of one speaker by another.

Example: Q You were at the--
A I don't understand you.

2. Self-Interruption: Use a dash to show an interruption--a change of thought--of a speaker.

Example: Q What are you--who are you talking about?

3. Parenthetical Interruption: Use a pair of dashes to set off a self-interruption which is parenthetical to the thought.

Example: A We talked with Sally--she was a good friend--on that day.

4. Interruption/Second Speaker/Resumption: Use dashes to show the continuation of the thought.

Example: Q When were you at the--
A What do you mean?
Q --at the station?

G. Capitalization

1. Rule 1: Capitalize the first word of a sentence or sentence fragment which represents a sentence.

*Examples: Q And when did you arrive?
A About 6 p.m.
Q On what day?
A The last day of the week, Saturday.*

2. Rule 2: Capitalize the names of specific persons, places, or things.

*Examples: When did you meet John Wilson?
Have you visited Missoula, Montana?*

3. Rule 3: Capitalize the days of the week, months of the year, and holidays or special days.

*Examples: Yes, I was there on Wednesday.
I was in the hospital for all of February.
We voted to have the Fourth of July off rather than Good Friday.*

4. Rule 4: Capitalize seasons of the year only if they are made proper nouns by their use.

*Examples: I plan to begin school in the fall.
He played the role of Winter in the spring play.
I took two courses winter semester.*

5. Rule 5: Capitalize adjectives which are derived from proper nouns. Exceptions to this rule include congressional, constitutional, and senatorial.

*Examples: He is an American citizen.
He is a Michigander.*

6. Rule 6: Capitalize the names of institutions such as colleges, universities, hospitals, churches, and libraries. Capitalize the name of a division within those institutions when it represents the official name of the division.

*Examples: I attend the University of Texas.
My major professor is in the Department of Political Science.
My son attends Michigan State College. (no such institution exists)
He is president of the Board of Education.*

7. Rule 7: Capitalize the names of companies, unions, associations, societies, independent committees and boards, political parties, conventions, foundations, fraternities, sororities, clubs, and religious bodies.

*Examples: She was chairperson of the Republican National Committee.
He used to serve on the Committee on Ways and Means.
It was an idea that came from the Mothers Against Drunk Driving.*

8. Rule 8: Capitalize common organization names such as advertising department, board of directors, and finance committee when they are actual names within units of the speaker's organization. Do not capitalize them when they are used to refer to some other organization unless there is some reason the speaker is giving them special importance or distinction.

*Examples: Our Marketing Department was headed by William Jones.
I believe he worked for the marketing department of Wentworth,
Inc.*

9. Rule 9: Capitalize the names of relatives (mother, father, sister, brother) when used as a substitute for the individual's name.

*Examples: My sister is in the courtroom today.
I spent the day with my father.
I asked Mother to call my sister.
I was unable to reach my mother on the phone.*

10. Rule 10: Capitalize personal or corporate titles that precede a name.

*Examples: Will Sheriff Martin please come to the stand.
Will Mr. Martin, Sheriff, please come to the stand.
Will the sheriff please come to the stand.*

11. Rule 11: For some exceptionally important officials or dignitaries, capitalize the name of the office even if it follows or replaces a specific personal name.

These exceptions and representative examples include the President, Vice President, Attorney General, Director of the FBI, Commissioner of Education, Senator, and Representative on the national level or in foreign governments.

In state government, capitalize only the Governor and Lieutenant Governor but not senator, representative, attorney general.

On the international level, capitalize the Pope and Secretary General of the United Nations. Examples of capitalization of foreign dignitaries are the Queen Mother, the Duke of Windsor.

*Examples: Mr. Quayle, Vice President, is the brunt of Carson's jokes.
John Jones, Senator from Florida, was the featured speaker.
William Thompson, senator from our district, was the speaker.*

12. Rule 12: Capitalize the titles of high-ranking officials or other prominent individuals when used in place of their name.

*Examples: The President of the United States was in the city that day.
The Secretary of Defense was quoted in the paper.
The Governor signed the bill yesterday.
The Senator has a different viewpoint.
The Pope is the spokesperson for the Vatican.
She was compared with Mother Theresa.
The Dean of the School of Business met with the Advisory*

Committee.

*The Chairperson of the Board must assume that responsibility.
The First Lady has some awesome responsibilities.*

13. Rule 13: Capitalize titles that are used informally in place of names in direct address. Note exceptions: sir, madam. In transcripts, counsel and counselor carry a certain amount of prestige and should be capitalized in direct address.

*Examples: Please, Doctor, explain the use of that term.
What is your opinion, Professor?
When did you meet the defendant, Father?
No, sir, I do not remember.
Please proceed, Madam President.
Please approach the bench, Counsel.*

14. Rule 14: Do not capitalize nouns which identify positions (unless high government positions.)

*Examples: He ran for district attorney.
The doctor arrived within minutes.
A highway patrolman arrived shortly thereafter.
I am a systems analyst.
The judge of that court will rule on the matter on Monday.
The state senator met with us yesterday.*

15. Rule 15: Capitalize the word "acting" when it appears before a title. Do not capitalize ex-, former, -elect, or late.

*Examples: We were honored by the presence of Acting President Ellis.
He was a friend of ex-President Reagan.
He came to the house when he was Governor-elect.*

16. Rule 16: Capitalize State, County, City, Town, or Township when used in reference to a governmental body.

*Examples: He was employed by the State of Maine.
We visited the state of Maine.
This agreement was signed by the City of Phoenix.
We compared the city of Phoenix with the city of Miami.
You must obtain your license from the County of Isabella.
We live in the county named Isabella.
You must appear in Circuit Court on Wednesday.
A district court has jurisdiction over this case.*

17. Rule 17: Capitalize the names of governmental organizations (federal, state, or local).

*Examples: You obtain your social security benefits from the Social Security Administration Office.
Have you filed with Worker's Compensation?
The American Civil Liberties Union will be called to testify.
He is employed by the Oregon State Patrol.
Judge O'Connell presides in District Court.
The Senate meets in Washington, D.C.*

18. Rule 18: Capitalize a noun when used as an abbreviated form of a governmental agency.

*Examples: I received my food stamps from the Welfare Department.
Yes, this drug was examined by the Food and Drug. (meaning Food and Drug Administration)
He went to West Point. (meaning West Point Academy)
The membership of the House is based on population.*

19. Rule 19: Capitalize military branches of the government or their abbreviations.

*Examples: I joined the Army after I graduated.
The Coast Guard is always on duty at that location.
The National Guard was called to handle the riot.
He joined the Marines. (meaning Marine Corps)
I taught for the U.S. military.*

20. Rule 20: Capitalize the word "Court" when referring to the judge.

*Examples: You heard the Court give you rules to follow in making a decision.
The case was heard before Judge O'Neil.
The judge has the responsibility of giving the jury charge.
The Court has the responsibility of giving the jury charge.
The bailiff will usher the jury members to the juryroom.*

21. Rule 21: Capitalize the brand names of products, including drugs. Do not capitalize the generic names or slang names.

*Examples: I needed to take at least three aspirin a day.
I bought coke in my neighborhood. (the drug)
The doctor prescribed Valium for my condition.
We were out of Pampers so had to go to the store.
My secretary made three xerox copies.*

22. Rule 22: For liquor or beverages, capitalize any word which in its use, is a country or a derivative of a country. Capitalize any other specific name of a beverage which, if not capitalized, would be confusing to the reader.

*Examples: We always drank French wine.
Irish whiskey is the best.
You should use Irish Mist for Irish coffee.
He usually drank vodka and Squirt.
He always asked for a Seven-Seven.
One Christmas he drank a Tom and Jerry.
He convinced me that Pepsi was a better drink.*

23. Rule 23: Capitalize exact names of academic courses but do not capitalize general subject areas.

*Examples: I earned an A in Accounting 101.
I plan to study accounting.
A course in business English was offered.
He was very interested in French history.*

24. Rule 24: Academic degrees and their abbreviations are capitalized when written after the name of the person having the degree. They are also capitalized when written out as a complete term. They are not capitalized when they are used in a general sense.

*Examples: I hope to have my Master's degree by June.
He has been working on his doctorate at Florida State.
Isabel Morales, Doctor of Philosophy, will speak to our group.
He'll never get his medical degree, in my opinion.*

*The job requires a bachelor's in sociology.
Samuel Goldman, D.D.S., is now open for business.*

25. **Rule 25:** Do not capitalize grades in school or classification of year in school.

*Examples: He completed the sixth grade.
I am a sophomore in college.*

26. **Rule 26:** Capitalize all words other than articles (a, an, the), prepositions of fewer than four letters, and short conjunctions in the titles of literary or artistic works or other published works.

Always capitalize the first word and the last word of a title.

*Examples: Have you read Gone with the Wind?
He has written an article, "How to Interrogate."
We agreed that Les Miserables was an exceptionally fine musical.
I'm writing a book I hope to entitle A Country to be Proud Of.*

27. **Rule 27:** Capitalize the names of historical events and periods.

*Examples: He fought in World War II.
My parents were a product of the Great Depression.*

28. **Rule 28:** Capitalize nicknames or imaginative names given to movements, programs, or historically designated cultural periods.

*Examples: Johnson advocated the Great Society.
We are living in the "me" generation.
The Cultural Revolution was a dark period in China's history.*

29. **Rule 29:** When capitalizing a hyphenated word, capitalize the word after the hyphen, unless the hyphenated word was capitalized only because it began the sentence.

*Example: His book was called The Runner-Up.
Follow-up information was available on January 1.*

30. **Rule 30:** Capitalize the entire titles of places, things, and ideas. Do not capitalize the shortened forms used in place of the full name.

*Examples: They were to leave from O'Hare Airport.
There were to leave from the Chicago airport.*

6-03 GLOSSARY OF LEGAL TERMS

ABATE To reduce, or diminish or defer a cause of action.

ABROGATE To annul, repeal or destroy a former law, rule of order.

ABSTRACT OF CONVICTION Summary of the court's finding on a moving violation. This term commonly refers to the form that the courts prepare and send to the Secretary of State's office.

ABSTRACT OF RECORD An abbreviated or partial record.

ABSTRACT OF TITLE A condensed history of the chain of title to land, used to determine or establish present ownership.

ACCESSORY One who knowingly and intentionally contributes to or aids in the commission of a crime, before or after, but not necessarily during, the commission of a crime.

ACCOMPLICE One who participates in the commission of a crime, other than the person actually doing the act constituting the crime.

ACQUIT To find not guilty and set free.

ACQUITTAL A judgment of not guilty in a criminal case.

ACTION, CASE, LAWSUIT, CAUSE These words mean the same thing. They all refer to a legal dispute brought before a court.

ACTIVE CASE Pending case; not disposed of.

AD DAMNUM The amount of the plaintiff's claim of damages in a civil case.

AD VALOREM According to the value.

ADDITUR The power of the trial court to increase the amount of an award made by jury verdict as an alternative to granting a new trial.

ADJOURN To suspend indefinitely, or until a later stated time.

ADJOURNMENT The postponing or putting off of a case or session of court until another time or place.

ADJUDICATE To determine judicially.

ADJUDICATION The final judicial determination of a case by a finding of guilt or innocence by a trial court in a criminal case or the giving of a judgment or a decree in a civil case.

ADMINISTRATOR The chief administrative officer of a court (usually "court administrator"). An outdated probate term referring to a person to whom authority to administer the estate of a deceased person has been granted by the proper court. Changed to personal representative in 1978. (See Fiduciary).

ADMINISTRATOR DE BONIS NON An outdated probate term for a person appointed by the probate court to administer that part of a decedent's estate which has not already been administered. Changed to personal representative in 1978.

ADOPTION The act by which a person takes the child of another into his or her family and makes the child, for all legal purposes, his or her own child.

ADULT A person who has attained the age of majority. In criminal cases, the age of majority is 17 years. For most other proceedings, the age of majority is 18 years.

ADVERSARY PROCEEDINGS An action contested by opposing parties.

ADVERSE POSSESSION A method of acquiring title to land by possession under a claim of right for a prescribed period of time without receiving a valid deed or conveyance from the legal owner.

AFFIANT One who, being sworn, makes and signs an affidavit; a deponent.

AFFIDAVIT A written statement of fact that is verified by oath or affirmation.

AFFINITY The relationship that exists as a result of a marriage, between a wife and her husband's relatives, or a husband and his wife's relatives, as distinguished from relationship by blood.

AFFIRMATIVE ACTION An effort by an employer to:

1. Identify all barriers in the personnel or management system which limit the ability of applicants and employees to reach their full employment potential, without regard to race, sex, religion, or national origin.
2. Eliminate all such barriers by implementing special programs.

ALIAS SUMMONS A second or subsequent summons issued after the originally issued summons expires without being served.

ALIMONY A sum of money which a court orders a spouse to pay to his or her separated or divorced spouse for support, aid or maintenance, not for child support.

ALLEGATION A declaration, assertion or claim of fact or law.

AMICUS CURIAE One who is not a party to a case but who is interested in or affected by its outcome and is allowed by the court to introduce argument or evidence to assist the court in adjudicating the case.

ANCILLARY That which is part of but subordinate to some other proceeding.

ANCILLARY ADMINISTRATION Administration of an estate in another jurisdiction where a decedent had property but where the decedent did not live.

ANCILLARY PROCEEDINGS A proceeding which is subordinate to the primary action.

ANCILLARY SUIT A lawsuit growing out of and supplementary to another suit, i.e., a suit seeking enforcement of a judgment.

ANNOTATIONS Brief summaries of the facts and decisions of cases interpreting statutes.

ANNUL To make void or of no effect. To annul a judgment or judicial proceeding is to deprive it of all force and authority.

ANNULMENT A court order declaring that a marriage or other agreement or contract was invalid or not legal.

ANSWER The legal paper in which the defendant answers the claims of the plaintiff in a lawsuit.

ANTENUPTIAL Made or done before marriage. Usually an agreement regarding how property is to be distributed upon the death of one of the marriage partners.

APPEAL An application to a higher court to change the judgment of a lower court.

APPEAL BY APPLICATION OR LEAVE An appeal where permission first must be obtained from the higher court.

APPEAL BY RIGHT An appeal to a higher court where permission does not first have to be obtained.

APPEAL RECORD The record sent by the trial court of what happened at the trial court. Must be either a copy of the court record and transcripts or a settled record.

APPEARANCE

1. Coming into court the formal act by which a defendant submits to the jurisdiction of a court.
2. Document identifying one who is representing himself or another. An attorney files an “appearance,” making it known to the court and the other parties that (s)he is representing a specific individual.

APPELLANT The party appealing a decision or judgment to a higher court.

APPELLATE COURT A court which reviews lower court decisions, generally on the record of the lower court. Cases from the district courts are appealed to the circuit court. Cases from the circuit court are appealed to the Court of Appeals and then to the Supreme Court. Cases from the probate court are appealed to both the circuit court and the Court of Appeals.

APPELLEE The party against whom an appeal is taken.

APPLICATION Placing a request or petition before the court. The act of making the request.

APPLICATION FOR LEAVE TO APPEAL A document requesting the appellate court to hear a party’s appeal from a judgment when the party has no appeal of right or the time limit for his appeal of right has expired. An “application for leave to appeal” must be made if one wishes to have the court consider one’s appeal where there is no appeal of right. It remains at the Court’s discretion to accept or reject an application.

ARBITRATION A procedure for the determination of a disputed matter by one or more private, unofficial persons. Legally binding as opposed to mediation.

ARRAIGN To bring a prisoner to a court for the purpose of having the prisoner answer the charge against him or her, and set bail.

ARRAIGNMENT A hearing by the court in which the defendant is informed of the charges against him or her, is appointed counsel if necessary, and is permitted to plead to the charges. Pretrial motions may be made, and bail is set.

ARREARAGE Money which is overdue and unpaid; usually child support.

ASSETS (IN PROBATE) All of the property available to the personal representative for payments of debts, charges and expenses and for distribution to the parties entitled thereto.

ASSIGNMENT

1. Assignment of Cases: the system or method that a court uses to assign cases to the judges of the court.
2. Assignment of Counsel: refers to the appointment of attorneys for indigent criminal defendants.
3. Assignment of Judges: the function performed by the State Court Administrative Office in assigning judges to the various courts to handle vacancies caused by vacations, illness, etc., or to help reduce the number of cases pending in a court.

ASSUMPSIT A common law action by which compensation for damages may be recovered for the non-performance of a contract.

ATTACHMENT The act of seizing a person or property under the authority of a judicial order so that the person or property is before the court, subject to its judgment.

ATTEST, ATTESTATION Signing as a witness to the execution of a written document.

ATTORNEY A lawyer; a person admitted to legal practice in the state qualified to represent the legal interests of another person.

ATTORNEY IN FACT The attorney acting in a fiduciary capacity under a “power of attorney.”

ATTORNEY OF RECORD The attorney named in the records or file of a case who bears the responsibility for the handling of the case on behalf of the party he or she represents.

AUTHENTICATED Certification of original or copy of recorded document.

AVERMENT See allegation.

BACKLOG Total inventory of cases at issue (in civil cases) or defendants arraigned (in criminal cases) and awaiting trial.

BAIL A method of pretrial release of an accused person by means of having accused or someone on his or her behalf post security to insure his or her appearance at later proceedings, such as trial.

BAILIFF A court employee who maintains order in the courtroom and who is responsible for the custody of the jury, among other functions.

BAIL BOND A financial obligation signed by the accused and those who serve as sureties to guarantee his or her future appearance in court.

BAILMENT A delivery or deposit of personal property by a person (the bailor) to another person (the bailee) for a particular purpose or period of time.

BENCH WARRANT An order issued by the court, (“from the bench”) for the arrest of a person for violating a court order.

BENEFICIARY

1. One who receives benefits under a trust or a will.
2. The person who is entitled to receive payments under an insurance policy.

BEQUEATH To give personal property by a will.

BEQUEST Former term used for gift of personal property by a will. Under the Revised Probate Code, now called a devise.

BIND To create a legal obligation upon one's self or upon another.

BIND OVER To hold for trial; a finding at a preliminary examination that sufficient evidence exists to require a trial on the charges made against the defendant.

BOND A promise or contract to do or perform a specified act(s) or to pay a penalty for failure to perform, usually guaranteed by a "surety" who promises to pay if the "principal" defaults, or by deposit of money as a "cash bond." Means basically the same as "bail" on criminal cases; contract to pay; security. A contract to pay when another person defaults - a surety. A contract to act as surety and to pay where the principal defaults. It is given by public officers to guarantee honest and faithful performance of their official duties while in office. If the principal defaults, the surety has to pay, and the surety can then collect from the principal. Not the same as insurance.

BRIEF A written argument submitted to the court by counsel setting forth facts and/or law supporting his or her client's case.

BURDEN OF PROOF The duty to establish a fact or facts in dispute. In criminal cases, the prosecution must prove its case "beyond a reasonable doubt." In civil cases, the plaintiff must prove its case by a "preponderance of the evidence."

CETA Comprehensive Education and Training Act. An act of Congress which provides funds to State and local government for the hiring and training of additional public employees.

CALENDAR A list of all pending cases, or all pending issues ready for trial in court. A court's complete trial (etc.) schedule. Often used interchangeably, but improperly, with "docket."

CALENDAR AUDIT Review of status of all cases on active lists. The audit might result in the removal of cases from the calendar and identification of cases which have been delayed excessively.

CANONS OF ETHICS A document which outlines the professional responsibilities and goals of doctors, lawyers, judges, etc. In Michigan the canons for judges are called The Code of Judicial Conduct and for lawyers, The Michigan Rules of Professional Conduct.

CAPIAS A bench warrant, issued when a defendant does not appear in court when required to do so; court-issued warrant for arrest.

CASE, LAWSUIT, CAUSE All refer to a legal dispute brought into court. The events, facts and circumstances which entitle a person to recover damages or other remedies by bringing a civil case, action or lawsuit in a court of law.

CASEFLOW The management of cases through the court; the passage of cases through the court system. (Ideally cases are to “flow” through the judicial process in a smooth, orderly manner, hence the name “caseflow”).

CASELOAD The number of cases a judge handles in a specific time period.

CERTIFICATION As pertains to mental health: The written conclusion and statements of a physician that an individual is a person requiring treatment together with the information and opinions in reasonable detail which underlie the conclusion.

CERTIFIED COPY A copy of a document, order or record of the court, or other public office, signed and certified as an exact and true copy by the officer of the court having custody of the original.

CERTIFY To vouch for something in writing; to put in writing a statement. To attest in writing to the authenticity and accuracy of a written instrument or document, or a copy of it.

CERTIORARI An order by an appellate court directing a lower court to certify and forward the record of a case for judicial review for legal error. This term is obsolete in Michigan.

CHALLENGE

1. To ask that a member of the jury panel be excused.
2. To question or dispute an action.

CHALLENGE FOR CAUSE To ask that a member of the jury panel be excused because there appears to be a specific reason, set out in the court rule, that one is not legally qualified to act as a juror in this case.

CHALLENGE TO THE ARRAY To question the qualifications of an entire panel summoned for jury duty, usually because of alleged partiality or some deficiency in the manner by which the panel was selected and summoned.

CHANGE OF VENUE A transfer or removal of a case to a court of another territorial location and jurisdiction, either because it should have been commenced there in the first place, or for the convenience of the parties or witnesses, or because a fair trial cannot be had in the original court location.

CHARGE TO THE JURY A judge’s instructions to the jury which contain information about the laws which relate to the issues to be decided in a case.

CHATTELS Personal property as opposed to real property.

CHIEF JUDGE In trial courts with two or more judges, one judge is selected as chief judge. The chief judge represents the court in its relations with other agencies and the public. In addition the chief judge is the director of the administration of the court.

CHILD ABUSE Mistreatment of a minor by an adult legally responsible for the minor.

CHILD CARE FUND State funds set aside to reimburse counties for part of the payments for the foster care and expenses of children.

CHILD CARE RULES The administrative rules for the care of children in foster care.

CHILD NEGLECT A failure to properly care for the emotional or physical needs of a minor.

CHILD SUPPORT See support.

CHILD SUPPORT GUIDELINES A guideline of factors used by the Friend of the Court and Prosecuting Attorney when recommending an appropriate amount of child support. Both the noncustodial and custodial parent's income are factors considered in the determination of child support under the guidelines.

CIRCUIT COURT The trial court of general jurisdiction in Michigan. Felonies and civil cases over \$25,000 are tried in this court. The Family Division handles cases involving domestic relations, juvenile proceedings, and other family matters. Circuit Court has superintending control over the District Court and Probate Court in the Circuit.

CIRCUIT COURT MISDEMEANOR Includes any offense which the statute designates as a misdemeanor which is punishable by more than one year imprisonment. It is processed in Circuit Court exactly like a felony.

CITATION

1. The court copy (original) of the "traffic ticket" is the citation, and also serves as the original complaint in the case.
2. Also can be reference to an authority (such as case or statute), that supports a statement of law or from which a quotation is taken. Citations occur most frequently in briefs.

CITATORS Books or services which provide, through letterform abbreviations or words, the judicial history and interpretation of reported decisions, and information as to cases and legislative enactments construing, applying or affecting statutes.

CIVIL ACTIONS OR LAWSUITS Generally, non-criminal cases concerning the claim of one private individual against another.

CIVIL INFRACTION An act or omission prohibited by law which is not a crime, for which civil sanctions may be ordered. Many traffic violations are classified as civil infractions.

CIVIL INFRACTION DETERMINATION A decision whether or not a person is responsible for a civil infraction by one of the following:

1. An admission of responsibility for the civil infraction.
2. An admission of responsibility for the civil infraction with an explanation.
3. An informal hearing or formal hearing.
4. A default judgment, for failing to appear at a scheduled informal or formal hearing.

CIVIL INFRACTION FORMAL HEARING A hearing conducted only by a District Court Judge involving the police officer, defendant and all witnesses. Defendant may be represented by an attorney and a prosecutor must be present.

CIVIL INFRACTION INFORMAL HEARING A hearing conducted by a District Court Magistrate or Judge involving the police officer, the defendant and any witnesses, held without a prosecutor or defense attorney. The determination may be appealed to a formal hearing.

CIVIL INFRACTION SANCTION The penalty imposed upon a person found responsible for a civil infraction: the assessment of fine and costs, the mandatory attendance of a corrective program such as driver's training program, drug or alcohol abuse program.

CIVIL LAW Laws regarding the establishment, recovery, or redress of private and civil rights.

CLAIM Debts arising at or before death include funeral and burial expenses of decedent. Also debts of minors, legally incapacitated persons, disappeared persons, or wards.

1. Contingent Claim: A claim for expenses not yet incurred and which is dependent on some future event which may or may not happen.
2. Tardy Claim: A claim filed after the date for the final presentation of claims.

CLAIM OF APPEAL The form or paper that is filed indicating an appeal is being taken. The original is filed with court where appeal is going to take place and copy with trial court.

CLAIMANT One who has a claim to or makes a claim to something.

CODE A grouping of statutes, relating to a particular subject matter and arranged in classified order. Usually created by enactment of a new statute by the legislature embodying all the old statutes relating to the subject and including changes necessitated by court decisions. In some cases, the change would result in a new statutory concept. Examples: The Revised Probate Code, The Uniform Commercial Code, etc.

COLLATERAL Money or goods given to secure payments of a debt (civil law) or to insure appearance in court (criminal law).

Collateral matters are matters related to but not legally relevant to the question before the court.

COMMIT The act of sending a person to a prison, reformatory, mental hospital or other facility, pursuant to a court order.

COMMITMENT The order by which the court directs:

1. The sending of a person to a prison or jail in execution of sentence.
2. The sending of a person to a hospital because of a mental disorder.

COMMON LAW A system of laws which has evolved from early days to the present consisting of old and accepted customs, precedents and court decisions, old English statutes and other unwritten but accepted standards. Common law is the foundation for the legal system in every state of the United States except Louisiana. In Michigan, the common law is still in effect except where it has been modified or repealed by statute.

COMMON PLEAS COURT This Court was abolished in 1981 and was merged into the 36th District Court. It was a civil court in the City of Detroit which had exclusive jurisdiction in civil matters up to \$5,000 and concurrent jurisdiction with Wayne County Circuit Court in cases where debt or damages did not exceed \$10,000.

COMPETENCY The presence of those characteristics, which make a witness legally fit and qualified to give testimony in court - applied, in the same sense, to documents or other written evidence.

COMPETENT Legally sufficient, relating primarily to evidence and witnesses in a court action, i.e., competent to stand trial.

COMPLAINANT One who makes a complaint, often interchanged with plaintiff and victim.

COMPLAINT The original pleading in a civil action means the original pleading in which the plaintiff alleges the basis for the suit. Complaint in a criminal action means a written accusation, under oath or upon affirmation, that a felony, misdemeanor or ordinance violation has been committed, and that there is probable cause that the person is guilty of the offense.

CONDEMNATION The process by which private real estate is taken for public use without the owner's consent but with just compensation, pursuant to a court order - a forced sale for public use. Destruction ordered for public health or safety. In such cases, there is no taking for a public use and thus there is no compensation.

CONFESSION A statement by person, either oral or written, admitting that he committed a certain offense. The statement must include all of the elements of the offense, or it is not a confession but an admission. An oral or written statement is not necessarily a confession.

CONSANGUINITY A relationship created by blood; persons who descend from a common ancestor.

CONSENT CALENDAR A schedule of informal hearings involving a child in which it appears it will serve the best interests of the child and society, with the consent of the child and all interested parties, to hear the case informally. The schedule or calendar upon which such informal hearings are placed is called the "consent calendar."

CONSERVATOR A person appointed by the court, as provided in the Revised Probate Code to manage and protect the estate of a minor or person under legal disability because of mental illness, mental deficiency of physical illness or disability.

CONSPIRACY An unlawful agreement to commit a crime or do a lawful act in an illegal manner. Conspiracy is a crime in Michigan.

CONTEMPT OF COURT An act which hinders or obstructs a court in the administration of justice or lessens its authority or dignity. Contempts are of two kinds:

1. Civil contempt: Refusal or failure to obey a court order for which the penalty is limited to enforcement of compliance with the order, and payment of costs to the other party. Civil contempt is usually committed outside the presence of the court.
2. Criminal contempt: Contempt, usually committed in the view and presence of the court, which is punishable by penalties of fines and costs payable to the court or imprisonment.

CONTINUANCE Postponement of an action pending in court. See adjournment.

CONTRACT An exchange of oral or written promises between two or more parties to do or not do a particular thing.

CONVERSION The wrongful exercise of the right of ownership or control over goods which belong to another.

CONVEY To transfer title to property; to transport, carry; to make known, communicate.

CONVEYANCE

1. The transfer of a title to property from one person to another.
2. The instruments in writing (documents) which effect the transfer of title.

CONVICT

1. To find or adjudge guilty of a criminal offense.
2. One who has been convicted of a criminal offense.

CORPUS DELICTI The body of the crime. That which the prosecutors must prove (that a crime was committed) before introducing a confession or admission into evidence.

COUNSEL An attorney; one who gives advice, especially legal advice.

COUNTERCLAIM A claim asserted by a defendant against the plaintiff in the course of suit; in essence, a counter-lawsuit within a lawsuit.

COUNTY AGENT Juvenile Officer - The juvenile officer is an officer of the juvenile court and serves under the supervision of the probate judge to direct and develop the child welfare work of the court.

COURT OF APPEALS The court in which appeals from the probate and circuit courts are heard and decided.

COURT OF CLAIMS Has the authority to hear only claims against the State of Michigan. As a general rule, a state cannot be sued without its consent. Michigan granted that consent by establishing the Court of Claims, which has jurisdiction over claims above \$100, except where the Circuit Court has jurisdiction. Since 1979 the Court is administratively housed within the Ingham County Circuit Court.

COURT CONGESTION An accumulation of cases impeding the timely movement of those cases through the judicial process.

COURT OF RECORD A court whose proceedings are by law permanently recorded by a public officer other than the judge; they have the power to fine or imprison for contempt. Courts not of record have less authority and their proceedings are not permanently recorded. The only courts not of record in Michigan are municipal courts.

COURT RECORDER A court official who records the activities of a court using an electronic recording device, usually for the purpose of preparing a verbatim transcript.

COURT REPORTER A person who records the activities of a court using manual shorthand, a stenotype machine or a stenomask.

COURT REPORTING AND RECORDING BOARD OF REVIEW A Board appointed by the Supreme Court to administer the certification of court reporters and recorders.

COURT SYSTEM Consists of: Michigan Supreme Court, Court of Appeals, Circuit Court, District Court, Probate Court, Municipal Court, Court of Claims. See the name of each court for descriptions of individual courts.

CRIME An act in violation of criminal law; an offense against the State of Michigan. Punishable by imprisonment or a fine other than a civil fine.

CRIMINAL One who has committed a criminal offense; one who has been legally convicted of a crime; one adjudged guilty of a crime.

CRIMINAL CASE A lawsuit is called a criminal case when it is between the People of the State of Michigan on one side as plaintiff, and a person or corporation on the other as defendant and involves a question of whether the defendant has violated one of the laws defining crimes.

CRIMINAL LAW The statutes that forbid certain actions or conduct as detrimental to the welfare of the state and that provide punishment. Criminal acts are prosecuted by the Prosecuting Attorney.

CROSS APPEAL An appeal taken by the appellee after the original appeal has been filed. In a cross appeal, the original appellee would be the appellant but only for purposes of the cross appeal.

CROSS EXAMINATION The questioning of a witness by the opposing party to test the truthfulness of the witness's testimony, to further develop it or to otherwise expand on it.

CUSTODY Care and keeping of anything, i.e., children in a divorce action or a defendant in a criminal action.

CUSTODY STATEMENT In some circumstances a child in custody is not released to his/her parent(s), guardian, etc., but is detained by the court. When this occurs, the officer taking the child in custody must prepare a statement setting forth the grounds for detention and submit this report to the court. It is called a "custody statement."

DAMAGES Money paid to a person who has been injured by the actions of another person.

DE BONIS NON Obsolete term. An abbreviation of De Bonis Non Administratis. See De Bonis Non Administratis.

DE BONIS NON ADMINISTRATIS Obsolete term. Of the goods not administered. Where the administration of the estate is left unfinished, because of death, removal, etc., of the personal representative and a new personal representative is appointed, the latter is termed "De Bonis Non." Usually referred to as a successor personal representative.

DE NOVO Latin. Means "anew", for example, a trial de novo is a trial anew or a new trial, as opposed to a mere review of the record of the first trial. Means to start over from beginning. For example, appeals from the Probate Court are not de novo, but rather on the record of what happened in the Probate Court.

DECEDENT A deceased person.

DECLARATORY JUDGMENT A judgment of a court determining the rights of the parties or giving the court's opinion on a legal point, without ordering that anything be done. A declaratory judgment is usually requested before the happening of (and in order to prevent) any specific act which could result in a claim for damages.

DECREE A court judgment in the chancery side of the court. A final decree is one fully and finally disposing of a case; an interlocutory decree is preliminary in nature, determining some issue in the case but not the ultimate question involved.

DEFAULT A failure to do what ought to be done, i.e., when a defendant doesn't plead within the time allowed or fails to appear for trial.

DEFAULT JUDGMENT Action taken by the court when a person fails to appear in court in answer to a summons in a civil case.

DEFENDANT The person against whom a lawsuit is started or a crime charged.

DEFENSE ATTORNEY The attorney representing the accused (defendant).

DEFERRED PROSECUTION Diverts a suitable defendant to a type of probation. The defendant is placed on special probation without ever having to go through court.

DELAY Time periods between phases in the processing of cases through the judicial system.

DELAYED APPEAL An appeal after the time for taking an appeal has run out and the higher court has granted permission to appeal because of some special circumstances.

DELIBERATE

Criminal Cases. As applied to a jury, the weighing of the evidence as relating to the law, for the purpose of determining the guilt or innocence of a defendant.

Civil Cases. As applied to a jury, the weighing of the evidence for the purpose of determining the facts at a hearing.

DEMUR To dispute the sufficiency of the law upon which the opposing side bases its argument.

DEMURRER Obsolete term in Michigan. Formerly, a response to a complaint alleging that even if the facts alleged in the complaint are true, they do not create any liability and therefore do not warrant any further proceedings in the matter.

DENIAL

1. A refusal by a court to grant a request presented by petition or motion.
2. In pleadings, an assertion that the allegations of the opposing party are untrue.

DEPONENT One who gives a deposition.

DEPOSITIONS Testimony taken down and transcribed in writing by question and answer under oath of a party or other witnesses who because of illness or distance or other good reason cannot be in court. This is read in court and to the extent it is admitted by the judge becomes evidence just as if the person were physically present. Videotaped depositions are also permitted.

DESCENT There are two sorts of descent: lineal and collateral.

1. Lineal descent is descent in a direct or right line, as from father or grandfather to son or grandson.
2. Collateral descent is descent in a collateral or oblique line; that is, up to the common ancestor and then down from him, as from brother to brother, or between cousins.

DETENTION The temporary care of a child who requires custody for his or her own or the community's protection pending disposition by the court or execution of an order of the court for placement or commitment. Also, holding cell or area in Circuit and District Court for defendants in custody pending appearances in court.

DEVELOPMENTAL DISABILITY An impairment of general intellectual functioning or adaptive behavior as described in the Mental Health Code.

DEVISE Under the Revised Probate Code, the term used for a gift of personal or real property.

DEVISEE A person given property under a will.

DICTUM See "Obiter Dictum."

DILATORY DEFENSES Defenses made solely for purposes of delay.

DILATORY FIDUCIARY A fiduciary (trustee) who causes undue delays in administering an estate.

DILATORY MOTION A motion made only for purposes of delay.

DILATORY PLEA A response to a lawsuit which has the object of delaying the action, without responding to the merits of the lawsuit.

DIRECTED VERDICT If after presentation of evidence by one or both sides the judge holds that there is no issue of fact for the jury to decide, he or she will instruct the jury on the verdict to be returned and the jury will return such verdict.

DISAPPEARED PERSON Absent from place of abode for at least seven continuous years; whereabouts unknown by person most likely to know whereabouts (for seven years as above); has not communicated with person above.

DISCONTINUANCE The termination of a civil case by withdrawal or failure to continue it by the plaintiff. A voluntary dismissal by the plaintiff.

DISCOVERY Procedures available to a party to a lawsuit, or petition for a particular request to ascertain facts relating to the issue to be determined which are known to other parties or witnesses, in order to enable the party to prepare for trial.

DISMISS To order a cause or prosecution to be terminated; to refuse to hear further.

DISMISSAL An order or judgment deciding a particular lawsuit in favor of the defendant by sending it out of court without trial. Dismissal “with prejudice” forever bars the right to bring a lawsuit on the same claim or cause; dismissal “without prejudice” disposes of the particular lawsuit before the court but permits a new lawsuit to be brought based on the same claim or cause.

DISPOSED CASE Not pending; decided; closed case.

DISPOSITION Determination of a case, whether by dismissal, plea and sentence, settlement and dismissal, verdict and judgment.

DISQUALIFICATION Refers to the disqualification of judges from hearing a case. Any interest which may impair the ability of a judge to decide the case in a fair and impartial manner. Disqualification is usually voluntary; however, it may be done on the motion of a party to the case.

DISSENT The disagreement of one or more judges of an appellate court with the decision rendered by the majority.

DISTRIBUTE One who receives property from a personal representative (but not a creditor or purchaser); a testamentary trustee to the extent of assets remaining in his hands; a beneficiary takes through a trustee.

DISTRIBUTION The division of the residue of an estate among the parties entitled thereto by the order of the court, after the payment of the debts and charges. It also includes the division of the residue of an estate by the Independent Personal Representative.

DISTRICT COURT All criminal cases are commenced in district court. Felony cases may be bound over to circuit court after preliminary examination or waiver. Misdemeanors are tried in district court. Civil cases under \$25,000 and summary proceedings for possession of real estate constitute most of the civil caseload.

DIVERSION A decision or program designed to divert offenders from official processing to a less formal, less adversarial and more community-based setting.

DIVORCE The termination of the legal relationship between a husband and wife.

DNR An abbreviation for the Michigan Department of Natural Resources.

DOC An abbreviation for the Michigan Department of Corrections.

DOCKET This word is often used interchangeably with “calendar.” It refers to a specific jurist’s calendar. Also improperly defined as the case history; see Register of Actions.

DOMICILE The permanent home to which a person, when absent, always intends to return. (See Residence.)

DOUBLE JEOPARDY Being placed more than once in danger of being convicted and sentenced for the same offense.

DOWER That part of a man’s real property which his widow is entitled to use for her lifetime after her husband’s death, as a result of her status as wife, as opposed to property devised or inherited.

DUCES TECUM Latin. It means “bring with you.” On a subpoena it means that you must bring your records or other specified material into court with you.

DUE PROCESS (OF LAW) The fundamental rules which guarantee “fair play” in the conduct of legal proceedings; i.e., the right to an impartial judge and jury, the right to present evidence on one’s own behalf, the right to confront one’s accuser, the right to be represented by counsel, etc.

EASEMENT A right to use land of another for a special purpose, such as crossing their land to gain access to yours if there is no other entrance.

ENJOIN To forbid; restrain.

EQUAL PROTECTION The Constitution requires that the government and courts of a state be open and available to all persons under the same conditions with like rules of procedure and evidence.

EQUITY A system of law and legal remedies which arose in common law England to provide remedies which the common law could not provide. It became a part of American jurisprudence along with the common law. The procedural distinctions between law and equity have been abolished by statute, but the substance remains, along with many of its terms. A “judgment” in law is called a “decree” in equity, as in a divorce case.

The amount or value of property above the total liens, charges or encumbrances.

ESCHEAT The reversion of property to the State, when a person dies leaving no heirs.

ESTATE The interest a person has in real or personal property; property left when a person dies. The assets of a decedent or other person subject to be administered under the authority of a court.

ESTOPPEL A prohibition against a claim or position which is inconsistent with the claimant’s prior conduct, e.g., one who sells land representing that he/she is authorized to do so may not claim in a later lawsuit against him or her that he or she had no authority to sell.

EVIDENCE Testimony, exhibits or other proof, presented at the trial for the purpose of inducing belief in the minds of the court or jury.

EVIDENTIARY MOTION HEARING Hearings at which evidence is presented (a “speaking motion”) as opposed to a hearing at which lawyers argue matters of law.

EX PARTE By or for or on the request of one party only, without notice to any other party.

EX PARTE INJUNCTION An injunction issued without prior notice to the adverse party.

EX PARTE MOTION A motion made to the court without notice to the adverse party.

EX PARTE ORDER An order made by the court upon the application of one of the parties to an action without notice to the other, and sometimes without a hearing.

EX POST FACTO Legislation made applicable to an act after the act was committed. Statutes making a prior legal act illegal.

EXAMINATION An inspection or investigation. As pertains to court action, the term is used to describe a preliminary hearing before the District Court to determine whether or not there is sufficient cause to hold a person to answer a felony charge before the Circuit Court.

EXECUTE The term means “to carry out, complete or dispose of according to law.”

EXECUTION A post judgment remedy to collect a money judgment. A writ issued by the court to authorize the process server to seize or take possession of real or personal property to be sold to satisfy the judgment.

The carrying out of some act or course of conduct to its completion; i.e., execution of a civil judgment is the putting into effect of the final judgment of the court by obtaining possession of that which the judgment has awarded.

EXECUTION OF AN INSTRUMENT The signing, sealing and delivery of a written instrument or document.

EXECUTOR, EXECUTRIX Executor (male). Executrix (female). Former terms for a person named in a will to carry out its terms, that is, to execute the will. Under the Revised Probate Code, now called a personal representative.

EXEMPT PROPERTY Personal property that the surviving spouse of a decedent is automatically entitled to receive from the decedent’s estate.
Property of a judgment debtor that is exempt from executions under either state law or federal bankruptcy law.

EXONERATE To free from suspicion; to show someone to be free of guilt.

EXPUNGE To legally void or supplement prior records in files, computers or other depositories.

EXTRADITION The formal process of delivering a person found in one state to the authorities of another state where that person has been accused or convicted of a crime.

FAC CASE Stands for “Failure to Answer Citation.” When a person fails to answer a traffic citation (ticket) the court concerned notifies the Department of State, which enters this information into its computer system. When this occurs it is called a “FAC Case,” and the defendant’s license is suspended until the FAC is set aside after the case is disposed of, and a fee is paid.

FCJ CASE Means failure to comply with judgment imposed for violations that are civil infractions that are issued on traffic violations and follows the same procedure as FAC cases.

FCPV CASE Means failure to comply with parking violation entries. The Secretary of State will prohibit individuals from obtaining or renewing licenses when they have six or more unpaid parking tickets within a court. The court concerned notifies the Department of State in the same procedure as in FAC and FCJ cases.

FEES A charge fixed by law for services of public officers or for use of a privilege under government control. A charge or wages for services given to one for the services performed, such as fiduciary or attorney fees.

FELONY A crime punishable by more than a year in the state prison, unless it is specifically stated to be a misdemeanor. Felonies are tried in Circuit Court.

FIA An abbreviation for the Michigan Family Independence Agency.

FIDUCIARY One who has the duty to act primarily for the benefit of another with respect to the subject matter of a trust. A person who is invested with rights and powers to be exercised for the benefit of another person; such as, conservator, guardian, representative, trustee, testamentary trustee, foreign personal representative, etc.

1. Successor Fiduciary: One who is appointed to succeed or replace a prior fiduciary.
2. Temporary Fiduciary: One appointed by the court until a regular fiduciary is appointed; a grant of authority over property limited to a personal representative, trustee or conservator.

FILE To put in the records, or deposit in the custody or among the records of a court.

FILING The act of recording the various legal documents pertaining to a suit with the clerk of the court. “Filing” also specifically refers to the original warrant, complaint, or other document which initiates the action.

FILING FEES Sums of money which must be paid to the court clerk before a civil action or an estate proceeding may start.

FOREIGN PERSONAL REPRESENTATIVE A personal representative from the jurisdiction of another state.

FOREIGN SUPPORT ORDER A support order issued by a state other than Michigan.

FORENSIC CENTER Another name for the Center for Forensic Psychiatry operated by the Department of Mental Health. Criminal defendants are often sent there by trial courts to determine if they are competent to stand trial.

FORENSIC MEDICINE The science of medicine as connected with the law.

FORMAL CALENDAR If it appears that formal jurisdiction is required in juvenile matters, a petition shall be filed. Further hearings shall be scheduled on the “formal calendar”.

FORMAL HEARING See, Civil Infraction Formal Hearing.

FORUM A court of justice or judicial tribunal. A place of justice or litigation.

FOSTER CARE REVIEW BOARD A board that reviews the permanent plans of foster care placement of neglected and abused children. This board is composed of private citizens.

FOSTER HOME, SHELTER HOME, GROUP HOME The temporary board and care of children in a licensed home or facility supervised by the court, a public or private agency.

FRAUD The intentional communication of an untruth to deceive another to deprive one of property or to induce one to surrender a legal right, or to injure him or her in some other way.

FRIEND OF THE COURT An official connected with the Circuit Court who investigates and advises the Circuit Court in domestic relations cases involving minor children and also provides enforcement of court orders in those cases.

FUGITIVE One who flees; always used in law with the implication of a flight, evasion, or escape from some duty or penalty or from the consequences of a misdeed.

FUGITIVE WARRANT A warrant authorizing the taking into custody of a person who has fled from one state to another to avoid prosecution or punishment for crime.

GARNISHMENT A court order to take part of a person's wages or other money owed to him or her before he or she receives the money, because of an unpaid debt owed to a creditor who has obtained a judgment against the debtor.

GRANT To convey, especially real property.

GRANTEE The person to whom a grant is made. Such as, the person who receives title to real property by deed.

GRANTOR The person who makes a grant or conveyance.

GUARDIAN The person who has the legal duty and power to take care of the person of another, who, because of some disability, usually age or incompetence, is considered incapable of caring for himself or herself. A person appointed by a court or designated as such in a will to exercise power over the person of a minor or a legally incapacitated adult.

GUARDIAN AD LITEM A person appointed by the court during the course of a litigation, in which an infant, incompetent adult, unascertained or disappeared person is a party, for the purpose of protecting the interest of these parties during the litigation.

GUILTY Found beyond a reasonable doubt to have committed a crime.

HABEAS CORPUS "You have the body," the name of a writ used to bring a person before a court or judge. Generally, the writ is addressed to an official or person who holds another. It commands him or her to produce the detained person in court so that the court may determine whether that person is being denied his or her freedom lawfully.

HABEAS CORPUS AD RESPONDENUM To bring in a prisoner for trial on another charge.

HABEAS CORPUS AD TESTIFICANDUM To bring a prisoner in to testify.

HARMLESS ERROR An error committed in the course of a trial which does not justify reversal of the verdict on appeal.

HEARING A term for a court proceeding before or after the trial of a suit.

HEARSAY Second-hand evidence not arising from personal knowledge of the witness but generally from repetition of what the witness has heard others say. The repetition of a statement, that was made outside of court, by a witness in a trial, intended to prove the truth of the statement. Hearsay is generally inadmissible, but if there is no objection it is admitted into evidence.

HEIR, HEIRESS A person who inherits or receives property from someone who has died. Person who “takes” or inherits under intestate succession, property of a deceased.

HOLOGRAPHIC WILL An unwitnessed will where the dispositive portions are in the handwriting of the decedent, signed at the end and dated.

HOMESTEAD An artificial estate in land, devised to protect the possession and enjoyment of the owner against the claims of creditors.

HOSTILE WITNESS A witness who exhibits such antagonism toward the party who called the witness to testify that cross-examination of that witness by that party is permitted by the court.

ILLEGITIMATE CHILD A child born to parties who are not married to each other.

IMPANEL (As pertains to juries.) To select a jury and enroll their names.

IMPEACHMENT OF WITNESS Questioning of a witness by an adverse party that attempts to cast doubt on the credibility (believability) of the witness.

INACTIVE CASE A pending case over which the court has no effective control; a case which is filed in the court, but for some reason cannot be processed by the court; examples: non-service, no progress (civil); defendant absconded or never arraigned (criminal). Also includes case which are closed; for which further action is unlikely to be taken because final judgment has been entered and the appeal period has passed.

INCARCERATION Commitment to jail or prison.

INCOMPETENT EVIDENCE Inadmissible evidence.

INCOME WITHHOLDING ORDER An order entered by the Circuit Court providing for the withholding of a person’s income to enforce a support order.

INDEPENDENT PERSONAL REPRESENTATIVE Person administering a decedent’s estate under the Revised Probate Code.

INDEPENDENT PROBATE Probate designed to operate without unnecessary intervention by the Probate Court as provided for by the Revised Probate Code.

INDICTMENT Formal accusation, “true bill,” presented by a grand jury which charges a person with a crime.

INDIGENT Impoverished; needy; poor; without funds.

INFERIOR COURT Lower court. Any court subordinate to the chief appellate court in a particular judicial system.

INFORMAL HEARING See, Civil Infraction Informal Hearing.

INFORMATION A formal accusation (criminal information) of a crime, differing from an indictment in that it is prepared and signed by the prosecuting attorney instead of the grand jury. This is the most common means employed in Michigan to bring an accused before the circuit court after a bindover from the district court.

INHERITANCE Property received by will or by law from someone who dies.

INJUNCTION A writ restraining a person from doing or continuing to do something that threatens or causes irreparable injury; or requiring the defendant to do a particular act. See “Restraining Order;” “Enjoin.”

INJUNCTION, PERMANENT An injunction intended to remain in force unless and until modified by a later decree of a court.

INJUNCTION, PRELIMINARY An injunction granted during the pendency of a suit, to restrain a party from doing or continuing some act, the right to which is in dispute, and which may either be discharged or made perpetual, according to the result of the controversy, as soon as the rights of the parties are determined. Also called a temporary injunction.

INNOCENT Not found to be guilty; acquitted.

INQUEST A legal inquiry generally before a court of law but in some instances before certain other officers legally empowered to hold inquiries, such as by a medical examiner investigating a death.

INSTRUCTIONS TO JURY A direction given by the judge to the jury concerning the law of the case; a statement made by the judge to the jury informing them of the law applicable to the case.

INTERSTATE INCOME WITHHOLDING ORDER An order entered to secure the enforcement of support obligations by the withholding of income derived in this jurisdiction to enforce the support order of another jurisdiction.

INTERESTED PARTY A probate court term for one of the following: heir, devisee; beneficiary; a fiduciary of a legally incapacitated person who is an heir, devisee or beneficiary; a fiduciary or trustee named in an instrument involved; or a special party.

INTERESTED PERSON A probate court term for one of the following: interested party; creditor; surety; any person having a property right in a trust estate or estate of decedent or ward who is affected by the proceedings; includes person nominated as personal representative; or a fiduciary representing an interested person.

INTERIM BOND Refers to a bond that is set by a police officer when a person is arrested for a misdemeanor minor offense without a warrant. Any misdemeanor warrant may also have an interim bond endorsed on it by the issuing judge or magistrate. Allows one to be released but available for an arraignment.

INTERIM ORDER A temporary court decree, which is put into effect until something else is done.

INTERLOCUTORY Temporary; not final, generally decides some point or matter between the beginning and end of a suit but is not a final decision of the case.

INTERLOCUTORY APPEAL An appeal of a decision made by the Court during the course of an action, but before the final order or outcome of the action.

INTERPLEADER A legal action enabling a person to pay monies into court and force two or more persons having competing or conflicting claims against him or her for the same thing to dispute the matter among themselves.

INTERROGATORIES Written questions posed by one party and served on another who must answer them in writing under oath - a form of discovery to enable the party posing the questions to prepare for trial.

INTER VIVOS Between living persons.

INTESTATE Dying without having made a valid will.

INTESTATE SUCCESSION Succession by or through a person, both lineal or collateral.

INVENTORY A list of the assets of a decedent or ward required by law to be filed in Probate Court reflecting assets that are subject to management by the fiduciary.

INVENTORY FEE A statutory fee for services rendered to a decedent's estate by the Probate Court.

ISSUE Of a person: All of the person's lineal descendants of all generations, except those who are descendants of a living descendant, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in the Revised Probate Code.

ISSUE (IN PLEADING) A single, certain and material point, deduced by the pleadings of the parties, which is affirmed on the one side and denied on the other.

JIS Judicial Information Systems. Provides systems analysis and programming services to courts and various judicial agencies throughout the state. JIS offices are located in Lansing and Detroit.

JOINT CUSTODY An order of the court in which one or both of the following are provided:

1. that the children live with one parent part of the time and with the other parent part of the time;
2. that the parents both share in making decisions on important issues dealing with the children.

JUDICIAL ACTIVITY REPORT Reports to the State Court Administrator on caseload and court activity of circuit, district, and probate courts.

JUDICIAL TENURE COMMISSION The commission which reviews complaints against judges, investigates those complaints and reports to the Supreme Court recommending appropriate discipline or removal of the judge by the Supreme Court.

JUDGMENT The decision of a court of law.

JUDGMENT NOTWITHSTANDING THE VERDICT Judgment N.O.V. (non obstante veredicto). A judgment rendered in favor of one party notwithstanding the finding of a jury verdict in favor of the other party.

JURISDICTION

1. Area or subject matter of legal control or authority. Not necessarily a geographical area. Example: The circuit court has jurisdiction over divorce cases.
2. Also refers to a person or entity over whom or over which the court has some right to decide rights and responsibilities. Example: The court has jurisdiction over a person who has been properly served with a summons in a pending case, or who has been arraigned in a criminal case. The probate court has jurisdiction over estates of decedents who died residents of the county or district in which the court is located.

JURISDICTION, CONCURRENT Where two courts of record have jurisdiction over the same person or a matter. This could be the circuit court (divorce proceedings) and a probate court (delinquency or neglect proceedings); or another probate court.

JURISDICTION, WAIVER OF Where a child 15 years of age or older is accused of any felony act, on application of the prosecutor, jurisdiction over that child may be waived from the probate court to criminal courts in the county where the alleged offense occurred.

JURY A body of men and/or women sworn to consider the evidence presented and to deliver a true verdict or decision in a judicial proceeding. There are six jurors for District Court in civil and criminal matters and six for civil and 12 for criminal matters in Circuit Court. There are six jurors in Probate Court (estates and juvenile cases).

JURY COMMISSIONER The officers responsible for choosing the panel of persons to serve as potential jurors for a particular county.

JURY, GRAND A jury of inquiry which receives complaints and accusations in criminal cases. It hears the prosecutor's evidence and issues indictments when satisfied that there is probable cause to believe that a crime was committed, and that the accused committed that crime. Grand Juries are rarely used in Michigan, but are very common in the federal judicial system.

JURY PANEL The group of prospective jurors, from which the trial jury of 6 or 12 is chosen.

JURY, PETIT The ordinary jury (of 6 or 12 persons) selected to hear the trial of a civil or criminal case and to determine issues of fact; so called to distinguish it from the grand jury.

JUVENILE A minor under the age of seventeen.

JUVENILE CODE The group of statutes dealing with procedures to follow in Juvenile Court.

JUVENILE OFFICER See "County Agent."

KIN One who is related by blood.

LAND CONTRACT A contract for the sale of land on a time payment plan.

LARCENY The trespassory taking of property with the intent to permanently deprive the owner of its ownership rights.

LAWSUIT, CASE, ACTION All refer to a legal dispute brought into court for trial.

LAWYER See “Attorney.”

LEAA Law Enforcement Assistance Administration. The agency of the U.S. Department of Justice responsible for administering law enforcement grants under terms of the Omnibus Crime Control and Safe Streets Act of 1968.

LEASE A contract or agreement for the renting of real or personal property for a specified or determined period of time and giving rise to the relationship of landlord (the lessor) and tenant (the lessee).

LEGACY Former term used for a gift of personal property left by will. Under the Revised Probate Code, now called a devise.

LEGACY RECEIPT Receipt for a legacy received or administered.

LEGALLY INCAPACITATED PERSON (L.I.P.) As used in Sections 3 to 12 and in Article 4 of the Revised Probate Code: Person, other than a minor, who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs or chronic intoxication to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person. Former term: legally incompetent person.

LEGATEE An heir to a bequest; one who receives property under a will.

LEIN Law Enforcement Information Network. A communications system and computer containing files on wanted persons' and drivers' records and automobile registration.

LESSEE The tenant under a lease.

LESSOR The landlord under a lease.

LIBEL Injury to a person's character or reputation by print, writing, pictures, or signs.

LIBER Latin for “book.” Sometimes used to refer to the large, bound book(s) of records in a court clerk's office, register of deeds, etc.

LIEN A claim against property to secure a debt or other obligation.

LINEUP A police procedure by which the suspect in a crime is exhibited, usually as one of a group of similar-appearing persons, before the victim or witness to determine if he or she can be identified as the person who committed the offense.

LITIGANT Party to a legal action.

LITIGATION The process of resolving a dispute over legal rights in court.

MAGISTRATE Used generally, this title means a judge. In Michigan, a district court magistrate is a quasi-judicial official of the district court given the power to set bail, accept bond, accept guilty pleas and sentence for traffic and other related violations, and to conduct informal hearings on civil infractions.

MAINTENANCE Providing for the support of a ward or the minor children or surviving spouse of a decedent.

MALICE Evil intent, motive or purpose.

MANDAMUS Latin; “We command.” A Writ of Mandamus is a written order requiring the person to whom it is addressed to do some specified act, generally connected with his or her duty as a public official.

MCLA An abbreviation for “Michigan Compiled Laws Annotated,” a series of law books.

MEDIATION A process that parties can use to reach their own agreements without going to court. A mediation decision is not ordinarily binding on the parties.

MERC Michigan Employment Relations Commission. This organization handles the certification of collective bargaining units and the mediation of disputes arising out of collective bargaining.

MENTAL ILLNESS

1. “Mental illness” means a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
2. Means mental disease to such an extent that a person so afflicted requires care and treatment for his or her own welfare, or for the welfare of others or of the community.

MENTALLY RETARDED Significantly below average intellectual abilities which originate during physical development (especially during pregnancy and early infancy).

MINOR A person under the age of 18 years by civil law; a person under the age of 17 years by criminal and juvenile law.

MINOR OFFENSE Minor Offense means a misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 92 days and the maximum permissible fine does not exceed \$500.00.

MIRANDA Refers to a United States Supreme Court decision, *Miranda v. Arizona*, 348 US 436 (1966), from which the rules governing “the right to remain silent” were taken.

MIRANDA WARNING A warning given by police prior to custodial interrogation, advising or informing the individual of his or her rights. For example, the accused has the right to remain silent, the right to an attorney, etc.

MISDEMEANOR A violation of a penal law of this State which is not a felony, or a violation of an order, rule or regulation of a state agency that is punishable by imprisonment or by a fine that is not a civil fine.

MISFEASANCE The improper performance of some act or duty.

MISTRIAL A trial declared defective and void due to prejudicial error in the proceedings, or the failure of a jury to agree upon a verdict.

MITTIMUS Latin for “we send”:

1. A written court order directed to the keeper of a prison, directing that he or she receive and safely keep an offender awaiting trial or sentence.
2. A writ directing the transfer of records from one court to another. (Contrast with Commitment.)

MOOT Usually in reference to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing which would be affected by the court's decision. Moot court is a practice court for law students.

MORTGAGE A lien on real property to secure the performance of some obligation, and to be discharged upon payment or performance as stipulated. It is a pledge or security of particular property for the payment of a debt.

MORTGAGEE One who holds a mortgage; the creditor.

MORTGAGOR The maker of a mortgage; the debtor.

MOTION An application to the court for the purpose of obtaining a certain order or decision in favor of the applicant.

MOTIONS, CALENDAR Motions pertaining to the calendaring of court appearances in a case such as motions to continue, advance or reset.

MOTIONS IN LIMINE A motion to exclude certain testimonial evidence from admission into evidence at trial.

MOTIONS TO SUPPRESS Application to the court before a trial, asking that a certain physical evidence or matter relating thereto, not be brought out during the trial.

MOTION TO QUASH See "Quash."

MPSC An abbreviation for the Michigan Public Service Commission, an agency of the Department of Commerce.

MSA An abbreviation for "Michigan Statutes Annotated," a series of law books.

MSP An abbreviation for Department of Michigan State Police.

MUNICIPAL COURT Court whose authority is confined to the city or community in which it is established. Municipal Court civil jurisdiction is limited to \$1,500. A few cities chose to retain this court rather than change to the District Court System.

NE EXEAT A court order forbidding the person to whom it is addressed to leave the country, the state or the jurisdiction of the court.

NEGLECT HEARING Hearing held in Probate Court. Involves child abuse or those situations where the children are not being properly cared for.

NO FAULT A case which is decided without making a determination as to which party is at fault. Michigan has laws which provide for both no-fault auto insurance and no-fault divorce.

NOLLE PROSEQUI (OR) NOL. PROS. Unwilling to prosecute; a formal entry made on the court record, by which the prosecutor declares he or she will not further prosecute the case.

NOLO CONTENDERE Latin, meaning "I will not contest it." It is a plea treated as a guilty plea except that it is not an admission of guilt, but an indication of readiness to accept conviction and sentence rather than to go to trial. If the defendant were to plead guilty, at the time of the plea he or she tells the court exactly what he or she did; it has to fit the charge. By pleading nolo contendere, there is no such requirement. If a civil action is pending, or may later be filed against him or her, he or she can thus avoid incriminating testimony.

NONFEASANCE The failure to perform some act or duty which ought to be performed. A neglected duty.

NON OBSTANTE VEREDICTO Latin. Notwithstanding the verdict, i.e., an order of the judge entering a judgment for the defendant notwithstanding a jury verdict for the plaintiff.

NO PROGRESS In a civil case, where a case is filed but not followed up; a case or cases which may be dismissed (disposed of) by the court because parties have done nothing to process the case from stage to stage.

NON-SERVICE In either a civil or criminal case, where a summons or warrant is issued but not served, or no arrest made.

NOTICE OF HEARING Document notifying of schedule matter in court. By law, one must notify the opposing party involved at least four days prior to hearing.

NOTICE TO QUIT

1. A written notice by a landlord to his tenant demanding that the tenant surrender and vacate the property, terminating the tenancy.
2. A notice to pay back rent in seven days or vacate.

NOTIFICATION OF PARENTS, RECORD OF NOTICE Whenever a child is taken into custody by any peace officer, that officer is required to notify the parents of the child. A written record of the names of the persons notified, the manner and times of notification, or reasons for failure to notify must be made and preserved.

NUNC PRO TUNC Latin phrase meaning “now for then.” An order allowing acts done after they should have been done (now) to be effective retroactively to when they should have been done (then).

NUNC PRO TUNC AMENDMENT An amendment or correction given retroactive effect by court order.

NUNC PRO TUNC FILING The filing of a pleading to take effect as of an earlier time.

NUNC PRO TUNC JUDGMENT A method of amending the record of a judgment which is in accord with what was actually pronounced and done, so that the record will be accurate and true. It is a procedural device often employed in correcting defects in titles in real estate.

OCJP Office of Criminal Justice Programs. A state agency responsible for disbursing funds to various segments of the criminal justice system.

OBITER DICTUM An incidental comment, not necessary to the formulation of the decision, made by the judge in an opinion which is not binding as precedent.

OFFENSE A crime or ordinance violation. The word “offense” generally implies an act infringing public as distinguished from private rights. In respect to minors, an offense is any act which violates provisions of the Juvenile Code and thus places the person committing the act in the jurisdiction of the juvenile court. Does not include civil infractions.

OFFENSE AGAINST CHILD Any act or acts by a person other than the child asserted as grounds for bringing such child within the provisions of the Juvenile Code.

OFFENSE BY CHILD Any act or acts by a child asserted as grounds for bringing the child within the provisions of the Juvenile Code.

ONE COURT OF JUSTICE A concept embodied in the Michigan Constitution of 1963, Article VI, Section 1, that there is but a single court in the state which is made up of several divisions, including a supreme court, a court of appeals, a circuit court, a district court, a probate court and other courts created by the Legislature.

ONE DAY, ONE TRIAL A method of summoning and utilizing jurors whereby an individual serves as juror for either one day or for the length of one trial. The purpose of this method is to reduce the term of service and expand the number of individual jurors called.

ORDER A direction of a court made or entered in writing. One which terminates the action itself, or decides some matter litigated by the parties.

ORDER ASSIGNING RESIDUE A probate court order which names the persons entitled to receive parts of an estate and that share allotted to each.

ORDINANCE A local law or regulation enacted by a municipal government. It has no effect outside that city or village.

PANEL The jurors serving a specific court; also used to refer to panels of three judges that sit together to hear cases on the Court of Appeals. Also see "Jury Panel."

PARENS PATRIAE DOCTRINE The inherent power and authority of state to protect the person and property of a person who is legally unable to manage his/her own affairs.

PAROLE Conditional release from prison before the end of sentence; if the parolee observes the conditions, he or she need not serve the rest of his or her term.

PARTIAL GUARDIAN A guardian whose rights, powers and duties are limited to those specifically enumerated by court order.

PATERNITY Fatherhood.

PATERNITY SUIT A type of court suit in which a mother tries to prove that a certain man is the father of her illegitimate child.

PEACE OFFICER Any public officer or official having authority to arrest to enforce the law and preserve the peace, and generally includes any sheriff or deputy sheriff, any state or municipal police officer, and any state conservation officer. It may also include judges of courts of criminal jurisdiction. Some other public officials (i.e., Mayor) may be designated by law as a peace officer for specific limited purposes.

PER CAPITA A method by which an estate is divided equally among a given number of persons.

PEREMPTORY CHALLENGE The right of the prosecution or defendant to challenge (remove) a certain number of jurors without giving any cause or reason. The right of the parties at a hearing to challenge a certain number of jurors without giving cause.

PERJURY A deliberate lie said under oath.

PERMANENT INJUNCTION One intended to remain in force unless modified by a later decree of a court.

PERMANENT WARD The permanent termination of parental rights from a child under the jurisdiction of the juvenile court; thus making the child a permanent ward of the court or other guardian.

PERSONAL PROPERTY Includes everything that is the subject of ownership but which is not real estate.

PERSONAL RECOGNIZANCE The release that is gained in a criminal case without the necessity of having to post money or have any surety sign a bond with the court. The court takes the defendant's word that he or she will appear for a scheduled matter or when advised to appear.

PERSONAL REPRESENTATIVE The current probate term for an executor, administrator with will annexed, or administrator de bonis non.

PER STIRPES By right of representation; it is the method of dividing an estate where a group of distributees take the share to which their deceased ancestor would have been entitled, such as where children take the share to which their parents would have been entitled.

PETIT JURY See "Jury Petit."

PETITION

1. An application made in writing to the court.
2. In probate court it is the instrument used to set forth the allegations (complaint) against the party before the juvenile court. Jurisdiction of the juvenile court can only be invoked by petition.

PLAINTIFF In civil cases, the person who initiates the lawsuit is the plaintiff. In criminal matters, the prosecuting attorney is the plaintiff.

PLEA The defendant's response to a criminal charge (guilty, not guilty, or nolo contendere).

PLEA-BARGAINING An arrangement between the prosecutor and defense counsel whereby the defendant agrees to plead guilty to a particular offense in return for the prosecuting attorney's agreement to allow such a plea (usually to a reduced charge) and/or a promise to dismiss some other offense pending against the defendant.

PLEAD To answer the indictment, information, complaint and warrant, citation, appearance ticket, etc.; to answer to an allegation.

PLEADING The process by which opposing parties alternately present their contentions in writing, each responding to the immediately preceding pleading of the other party, thereby narrowing the controversy until, hopefully, a single point of dispute emerges, called the issue. It is the issues which are resolved at trial.

PLEADINGS The papers filed by parties in a lawsuit stating their claims and defenses against each other.

PLENARY GUARDIAN A guardian who possesses the full powers of a full guardian of the person, and of the estate.

POWER OF ATTORNEY A written instrument appointing and authorizing a person to act in the place of another as agent or substitute. One holding a power of attorney is called an attorney in fact, and may or may not be a lawyer.

PRAECIPE A form formerly used to ask a court clerk to do something (such as issue a summons after a complaint is filed, etc.).

PREJUDICIAL ERROR “Reversible error;” an error in the course of a trial serious enough to require an appellate court to reverse the judgment.

PRELIMINARY EXAMINATION A hearing in a felony case before a district judge at which the prosecution presents evidence (the defendant and his or her counsel being present) from which the district judge decides whether or not there is probable cause to believe that a crime has been committed and that the defendant committed the crime and to “bind over” or refer the defendant to the circuit court for trial. Testimony of some witnesses and presentation of some exhibits are had at such examination.

PRELIMINARY HEARING The first stage of the processing of a juvenile case when the juvenile is in custody.

PRELIMINARY INQUIRY The first stage in the processing of a juvenile case when the juvenile is not in custody. An informal juvenile court procedure.

PRESENTENCE INVESTIGATION Investigation of the relevant background of a convicted offender. Usually conducted by a probation officer attached to a court, designed to act as a sentencing guide for the sentencing judge. See “Presentence Report.”

PRESENTENCE REPORT Written report prepared by the Probation Department containing the family and personal history of the accused, evaluation of the crime and its ramifications, and recommendations as to sentencing. Required in all felony cases. Presented to the judge as a guide in determining sentence.

PRESENTMENT A written finding by a grand jury of an offense, from their own knowledge or observation, without any bill of indictment laid before them at the suit of the government.

PRESIDING JUDGE

1. The judge conducting a hearing or trial. The judge in charge of a case.
2. Formerly, the chief judge of a court composed of two or more judges. The presiding judge in this sense is now called the Chief Judge.

PRETRIAL CONFERENCE Hearing in a criminal or civil case between the judge and the attorneys to discuss any questions or matters that can be resolved prior to the trial itself to assist in expediting or simplifying the trial. Such hearing is usually informal and without clients participating in the hearing itself.

PRETRIAL HEARING The same as a pretrial conference.

PRIMA FACIE “At first glance.” Case in which the evidence produced is sufficient to establish the facts unless contrary evidence is produced.

PROBABLE CAUSE A reasonable ground for believing the facts justify issuance of a warrant, or further legal action.

PROBATE The process of proving the validity of a will.

PROBATE COURT The court in Michigan which handles matters of probate; that is, wills, estates, trusts, guardianships, conservatorships, etc. The court also handles matters relating to the commitment of mentally ill persons.

PROBATE REGISTER A person who serves both as clerk of probate court and in a quasi-judicial manner in estates.

PROBATION Allowing a person convicted of an offense to remain in the community instead of going to jail or prison as long as the offender fulfills the conditions of the probation. One's probation is usually supervised by a probation officer. If a person violates probation, probation can be revoked and the defendant resentenced.

PROCEEDING Any hearing or court appearance related to the adjudication of a case.

PROCESS A court order to appear in court or enforce a judgment. Subpoenas and summonses are examples of process.

PROCESS SERVER A person employed to deliver a summons or complaint to a person being sued or to deliver a subpoena to a witness.

PRO CON DIVORCE An uncontested divorce. The proceeding consists of a short hearing at which only plaintiff appears, the defendant not contesting anything, after which the divorce is granted.

PRO SE A person who represents himself or herself in court without the aid of a lawyer. Also referred to as pro per.

PROSECUTING ATTORNEY A public officer whose duty is the prosecution of criminal proceedings on behalf of the people.

PROSECUTOR A prosecuting attorney.

PS An abbreviation for the Protective Services unit of the Department of Social Services.

PUBLIC DEFENDER A lawyer paid by the county to defend one who is indigent (without funds). Michigan has a statewide "Public Defender" office for the handling of appeals (See SADO). It does not have a statewide system for handling of trials.

PURCHASE-MONEY MORTGAGE A mortgage given, concurrently with a conveyance of land, on the same land, by the vendee to the vendor, to secure the unpaid balance of the purchase price.

QUANTUM MERUIT "As much as he deserves"; absent a contract/agreement, the law implies a promise to pay a reasonable amount for services or materials received from another.

QUASH To nullify a conviction or order. A motion to quash is initiated for the purpose of setting aside a bindover after a preliminary examination.

QUID PRO QUO Something for something; a fair return; the giving of one valuable thing for another.

QUO WARRANTO The name of a writ which brings a person into court so that it may be determined by what right he or she exercises his or her authority, usually brought by the Attorney General to test a person's claim of right to hold public office.

REAL PROPERTY Land, and generally whatever is erected or growing upon or affixed to the land.

REALTY A brief term for real property; also for anything which partakes of the nature of real property.

RECONCILIATION When the parties in a divorce action are attempting to work out their differences and wish to have enforcement of their court-orders suspended.

RECESS A brief time set by the judge when those in court including the jury may be excused from the courtroom.

RECOGNIZANCE

1. An obligation entered into before a court of record or duly authorized magistrate, containing a condition to do some particular act, usually to appear and answer a criminal accusation.
2. A term used interchangeably with “bail bond” in many statutes and court opinions.

RECORD The word for word (verbatim) account by the official court reporter/recorder of all proceedings at the trial. See Docket.

RECORD ON APPEAL The pleadings, exhibits, orders or decrees filed in a case in the trial court, a copy of the docket entries, and a transcript of the testimony taken in the case, forwarded to the appellate court.

RECORDER In some jurisdictions, a public officer who has charge of the records of deeds, and instruments relating to real property, and other legal instruments required by law to be recorded. Also, a court recorder (see “Court Recorder”).

RECORDS RETENTION AND DISPOSAL SCHEDULES A system or plan covering all records kept by a court which states what must be kept indefinitely and what may be disposed of and when.

REFEREE A person who takes testimony and reports to the court. A referee can be either a Friend of the Court or an attorney employed by the Friend of the Court or an employee of the Juvenile Court.

REFERRAL Referral to a Protective Service. If it appears that the best interest of the child and of society will be served, the court may refer the matter at hand to a public or private agency providing such service.

REGISTER OF ACTIONS A written list of all important acts done in court in the conduct of an individual case from beginning to end. This is properly called a “case history.” The case register of actions (for acts done), the case file (for documents filed) and any transcript of proceedings together form the “record” or a court of record.

RELEASE-ON-RECOGNIZANCE (ROR) The pretrial release of an arrested person on his or her written promise to appear for trial at a later date, without deposit of cash or any surety. Used primarily with defendants as an alternative to monetary bail. See “ROR,” “Recognizance.”

REMAND To send a case back to the court from which it came for further proceedings. (e.g., defendant waives a preliminary examination, thus the case goes from District Court to Circuit Court, usually because the defendant intends to plead guilty to a charge. The defendant then decides not to plead guilty and requests a preliminary examination; if the request is granted, the case is “remanded” to District Court.) To send back to the lower or trial court from which it was appealed, with instructions as to what further proceedings should be had there.

REMITTITUR An order in cases when a jury has made an award of damages which is excessive in which the amount of damages is reduced.

REPLEVIN An action to recover property wrongfully taken or held by another. Now called Claim and Delivery.

REPORTS

1. Court reports: published judicial cases arranged according to some grouping, such as court jurisdiction, period of time, subject matter or case significance.
2. Administrative reports or decisions: published decisions of an administrative agency.
Example: 406 Mich 1 means a case started on page 1 of volume 406 of Michigan Reports (Michigan Supreme Court decisions).

REPORTER

1. A court official responsible for the verbatim recording of the proceedings in trials, including the questions addressed to, and answers made by, witnesses, usually for the purpose of preparing a verbatim transcript.
2. A court official responsible for compiling, indexing and publishing the opinions of an appellate court.

RES GESTAE

1. A matter incidental to the main or principal fact which helps explain that fact.
2. Acts and words which are so related to an occurrence as to appear to be evoked and prompted by it.

RES GESTAE WITNESS Person taking part and/or witnessing or at the scene of a crime who may have personal knowledge concerning the crime or the defendant's possible involvement.

RES JUDICATA A rule that a matter once judicially decided is finally and conclusively decided and cannot be relitigated.

RESIDENCE The place where one presently in fact lives. Does not require that it be a permanent home as is the case with "domicile."

RESIDUE That part of an estate remaining after payment of all debts, charges and legacies.

RESPONDENT A party against whom a motion is filed in the course of a lawsuit; analogous to a defendant or an appellee.

RESTRAINING ORDER An order of the court which is intended to restrain a person's actions and preserve the status quo until a hearing can be held to determine if a temporary injunction should be issued. TRO or temporary restraining order. Not to be confused with personal protection orders.

RESTRICTED DELIVERY MAIL A new postal classification which takes place of certified mail. County Clerks frequently use this type of mail in conducting the court's business.

RETURN An endorsement or report by an officer, recording the manner in which he or she served, the process or order of the court.

REVERSE To set aside a judgment on appeal or proceedings in error; to annul; to vacate.

REVOCATION OF WILL The annulling, or rendering inoperative an existing will, by some subsequent act of the testator.

RIGHT OF REPRESENTATION See "Per Stirpes."

R-O-R, ROR See “Release on Recognizance.”

14 DAY RULE A rule which requires that a person charged with a felony be given a preliminary examination not more than 14 days after the person’s arraignment on the original warrant.

180 DAY RULE

1. A rule which allows those accused of a felony who have been in jail for 182 days and who have not yet been brought to trial, to be released on their own recognizance if the delay has not been caused by the accused or the accused’s attorney.
2. A rule which requires all pending charges against a prison inmate be brought to trial in 182 days or be dismissed with prejudice.

R.U.R.E.S.A. An abbreviation for “Revised Uniform Reciprocal Enforcement of Support Act.” Pertains to non-support actions against a noncustodial parent who resides in another state.

SADO An abbreviation for State Appellate Defenders Office.

SATISFACTION A written acknowledgement of receipt of payment or performance of a judgment which, when filed with the court, discharges the obligation.

SCAO An abbreviation for the State Court Administrative Office.

SEARCH WARRANT A written order from a judge or magistrate directing an officer to search a specific place for a specific object, issued upon a showing of probable cause.

SENTENCE The punishment imposed upon the defendant following a conviction in a criminal proceeding.

SEQUESTRATION OF WITNESSES A court order directing witnesses to stay outside the courtroom and not discuss testimony with other witnesses until they are called to testify to prevent witnesses from being influenced by the testimony of other witnesses.

SERVICE OF PROCESS The service of writs, summonses, etc.; signifies the delivering or leaving of such documents with the party to whom or with whom they ought to be delivered or left; and, when they are so delivered, they are then said to have been served.

SHOW CAUSE ORDER An order to appear as directed and present to the court reasons and considerations as to why certain circumstances should be continued, permitted, or prohibited, as the case may be.

SHOW UP See “Lineup.”

SLANDER Injury to a person’s character or reputation by the spoken word.

SMALL CLAIMS COURT A division of district court. The jurisdiction of the small claims division is limited to cases where the amount claimed does not exceed \$2,500. Claims are handled informally by a judge without lawyers or juries and with no right to appeal.

SOLE CUSTODY An order of the court which states that the children live with one parent and that parent is responsible for making decisions on important issues dealing with the children.

SOS An abbreviation for the Michigan Department (of the Secretary) of State.

SPECIFIC PERFORMANCE A court order directing a party to a contract who has breached its terms to do what he or she contracted to do; generally involved when the thing or service contracted for is unique so that money damages for breach of contract would be inadequate, i.e., breach of contract to sell water rights to one who has no alternative access to water.

SPENDTHRIFT A person who by excessive drinking, gaming, idleness, or debauchery of any kind shall so spend, waste, or lessen his estate as to expose himself or his family to want or suffering, or expose the State to charge or expense for the support of himself or family.

STANDARD JURY INSTRUCTIONS A collection of jury instructions approved by a Supreme Court committee for use by trial court judges.

STARE DECISIS The doctrine that the decisions of the court should serve as precedents for future cases.

STATE APPELLATE DEFENDER'S OFFICE (SADO) A state office for handling criminal appeals and post conviction proceedings for indigents on a state-wide basis. The goal is to provide speedy processing of appeals within the time limits set by court rules. The office is supervised by the seven member State Appellate Public Defender Commission which is appointed by the governor upon recommendations of the State Judiciary and the State Bar of Michigan.

STATE CASE Refers to a violation of state law. The term is most often used in District Courts and the remaining Municipal Courts to distinguish between the local ordinance violations they usually deal with and violations of state statutes. Violating a state law makes the case a "state case" in these jurisdictions.

STATE COURT ADMINISTRATOR An official appointed by the Michigan Supreme Court to act as the director of the State Court Administrative Office.

STATUS OFFENSE A violation of the juvenile code by a minor that would not be considered a violation of the law if committed by an adult. Examples: runaway, school truancy, incorrigibility, etc.

STATUTES Laws in the State of Michigan enacted by the State Legislature.

STATUTE OF FRAUDS A legal doctrine or rule that certain types of agreements must be in writing or they will not be enforced by the courts. Real estate sales agreements are examples of agreements that must be in writing.

STATUTE OF LIMITATION

1. **CIVIL** A statutory time limit on the right to seek relief in court for damages; providing that any claim for relief shall be barred unless begun within a specific period of time following the alleged wrong.
2. **CRIMINAL** The mandatory time limit set by statute to commence prosecution. The following are examples of specific limitations in Michigan:

Murder no limit

Assault with intent to murder 10 years

Conspiracy to commit murder 10 years

Kidnapping 10 years

Extortion 10 years

Other felonies generally 6 years

STAY The suspension of a judicial proceeding by court order.

STIPULATION An agreement between opposing attorneys on any matter relating to the proceedings or trial, i.e., to extend the time to answer, to adjourn the trial date, to admit certain facts at the trial, etc. Often requires court approval to be effective.

SUBPOENA A writ or order to compel attendance in a court with a penalty for failure to do so.

SUBPOENA DUCES TECUM This subpoena is used when you want the witness to bring with him or her all of his or her records or other specified material mentioned in the body of the subpoena.

SUBROGATION The substitution of one party to the rights of another. Most commonly used in civil cases in which an insurance company (subrogee) which pays its policyholder is entitled to the policyholder's right to recover damages.

SUCCESSOR A person who succeeds to the office, rights, responsibilities, or place of another. One who replaces or follows another.

SUMMARY PROCEEDINGS In Michigan, a civil action to recover possession of premises (eviction) and to obtain certain types of ancillary relief (damages, back rent, etc.).

SUMMARY DISPOSITION A judgment which is rendered on the motion of one of the parties, when the pleadings, depositions, affidavits, etc., show that there is no real issue to be decided or that no valid claim or no valid defense has been offered.

SUMMONS A notice given to a party stating that proceedings have been instituted against him or her and directing that the person appear in court at a given date and time to answer the complaint; and further, should he or she fail to answer a judgment will be entered against him or her.

SUPERINTENDING CONTROL The constitutional doctrine that the Michigan Supreme Court has general administrative supervision over all the courts of the state. The Circuit Courts of each county have a similar administrative supervisory power over the various lower courts within their jurisdiction.

SUPPORT ORDER An order by the Circuit Court ordering the payment of money for a child or spouse in a divorce proceeding or a Paternity Act Proceeding. Support includes medical, dental and educational expenses.

SUPPRESS To suppress a court record is to prevent its release; to suppress evidence is to not allow its use.

SUPREME COURT The court of last resort in Michigan, the highest appeals court in the State. The Michigan Supreme Court also has superintending control over all other courts in the state. See "Superintending Control."

SURETY A person who legally accepts the responsibility for the fulfillment of another's obligation, in case the latter, who is called the principal, fails to fulfill it. The obligations are usually financial.

TAKE As used in probate, to acquire title or to be entitled to an estate, such as the person is entitled to "take" under the will.

TEMPORARY WARD A minor who is under the supervision of the juvenile court but whose parents' parental rights have not been terminated.

TENANT A person who rents property from the owner (called a landlord). One who occupies the property of another for a temporary period, with the landlord's consent.

TEN PERCENT BOND A procedure that allows persons to pay to the court ten percent (10%) of the bond otherwise required of them to obtain their release. This procedure reduces the actual monetary amount paid so that most persons can arrange bond without the services of a bondsman or other surety.

TERMINATION HEARING A hearing held in the family division of Circuit Court to determine if the parental rights are to be taken away from the parties involved, and therefore the child will become a ward of the court. The prosecutor is required to attend. This is the final scheduled hearing of a neglect/abuse case.

TESTATE Dying having made a valid will.

TESTATOR, TEXTATRIX One who has made a will.

TESTIMONY The statement of a witness under oath which is given as evidence.

TORT An injury or wrong committed against the person or property of another, arising out of violation of a duty established by law rather than by contract.

TRANSCRIPT The verbatim record of proceedings in a trial or hearing.

TRIAL COURT The court where trial took place. In Michigan, there are three trial courts: district, circuit and probate court.

TRUST A right of property, real or personal, held by one party for the benefit of another.

TRUSTEE A person in whom property is vested in trust for others.

TURNER HEARING A proceeding to determine if the defendant was entrapped by law enforcement officials into committing the offense.

VENDEE A buyer; a person to whom something is sold.

VENDOR A seller; a person who sells something.

VENIRE Technically, a writ summoning prospective jurors; popularly refers to the group of jurors summoned.

VENIREMAN A member of a jury panel.

VENUE The county in which proceedings may be instituted. See also "Change of Venue."

VERBATIM The recording of the exact word-for-word proceedings of a trial court, as prepared in transcript format.

VERDICT The jury's decision or finding on the issues submitted to it for determination.

VERIFICATION The affidavit of a party, (e.g., in a court pleading) or of his or her agent or attorney, that certain statements of fact, (e.g., the allegations of a pleading) are true.

VISITATION ORDER Now referred to as “parenting time” order. An order that establishes visiting times between non-custodial parent and his/her children.

VOIR DIRE EXAM The preliminary examination into the qualifications and potential biases of prospective witnesses or jurors.

WADE HEARING A pretrial hearing to test the fairness of a lineup. The issue at such a hearing is whether to admit or suppress the identification of the accused that resulted from the lineup.

WAIVE To give up a right, claim, or privilege.

WAIVER The act of waiving or giving up a right, privilege, etc.

WAIVER HEARING When a petition is filed in juvenile court requesting a waiver of jurisdiction, a two phase hearing is given on the merits of the petition. See “Jurisdiction, Waiver of.”

WAIVER OF IMMUNITY A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

WAIVER OF JURISDICTION See “Jurisdiction, Waiver of.”

WALKER HEARING A court proceeding to determine whether the police officer advised the defendant of his or her rights under Miranda prior to the statement and whether the defendant voluntarily gave the statement.

WARD A person (especially an infant) placed by authority of law under the care of a guardian.

WARRANT A writ or paper issued by a judge or magistrate which allows the police to arrest a person. See also “Bench warrant,” “Fugitive warrant,” “Search warrant,” “Warrant of arrest.”

WARRANT OF ARREST An order issued by a judge or magistrate, to a peace officer requiring the arrest of a person named therein.

WARRANT RECALL A procedure for removing from Department of State and State Police computers information concerning cancelled warrants in order to avoid repeated or mistaken arrests.

WIDOW A woman whose husband is dead, and who has not remarried.

WIDOWS ELECTION A widow’s choice whether she will inherit under the will or under statute; that is whether she will accept the provision made for her in the will, and acquiesce in her husband’s disposition of his property, or disregard it and claim what the law allows her.

WILL A written instrument whereby a person makes a disposition of his or her property to take effect after his or her death.

WITH PREJUDICE A claim dismissed “with prejudice” means that the plaintiff in a civil case or the prosecution in a criminal case is forever barred from bringing a lawsuit on the same claim.

WITHOUT PREJUDICE A claim dismissed “without prejudice” may be the subject of a new lawsuit or a new criminal proceeding.

WITNESS One who testifies to what he or she has seen, heard or otherwise observed.

WRIT A court order giving the authority to require the performance of a specific act.

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